

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION**

IN RE SYNGENTA ACTIONS

This Document Relates To:

Poletti et al. v. Syngenta AG et al.,
No. 3:15-cv-01221-DRH

Judge David R. Herndon

SYNGENTA AG,
SYNGENTA CROP PROTECTION AG,
SYNGENTA CORPORATION,
SYNGENTA CROP PROTECTION, LLC,
SYNGENTA BIOTECHNOLOGY, INC., AND
SYNGENTA SEEDS, LLC,

Defendants/Third-Party Plaintiffs,

v.

ARCHER DANIELS MIDLAND COMPANY,

Third-Party Defendant.

**SYNGENTA’S NOTICE OF VOLUNTARY DISMISSAL OF
THIRD-PARTY CLAIMS AGAINST ARCHER DANIELS MIDLAND COMPANY**

Pursuant to Federal Rules of Civil Procedure 41(a)(1)(A)(i) and 41(c), Defendants and Third-Party Plaintiffs Syngenta AG, Syngenta Crop Protection AG, Syngenta Corporation, Syngenta Crop Protection, LLC, Syngenta Biotechnology, Inc., and Syngenta Seeds, LLC (f/k/a Syngenta Seeds, Inc.) (together, “Syngenta”) hereby dismiss their third-party claims against Third-Party Defendant Archer Daniels Midland Company (“ADM”) with prejudice.

1. On May 15, 2017, Syngenta filed a third-party complaint alleging contribution and indemnity claims against Third-Party Defendants, including ADM. *See* ECF Nos. 230, 229.

2. On September 11, 2017, the Third-Party Defendants moved to dismiss Syngenta's third-party complaint. *See* ECF Nos. 306, 307.

3. Under Federal Rules of Civil Procedure 41(a)(1)(A) and 41(c), a third-party plaintiff may voluntarily dismiss a third-party claim "(1) before a responsive pleading is served; or (2) if there is no responsive pleading, before evidence is introduced at a hearing or trial."

4. ADM has not yet filed a responsive pleading, and the Third-Party Defendants' motion to dismiss does not constitute a responsive pleading. *See, e.g., Pennsylvania R.R. Co. v. Daoust Constr. Co.*, 193 F.2d 659, 661 (7th Cir. 1952) (explaining that a motion "to dismiss the third party complaint for failure to state a cause of action certainly was not an answer to the complaint, nor is such a motion ordinarily considered a responsive pleading"); *see generally* Wright & Miller, *Federal Practice & Procedure* § 2363 ("[I]t is clear that a motion to dismiss under Rule 12 does not terminate the right of dismissal by notice.").

5. ADM and Syngenta have agreed that no costs are to be awarded in connection with this voluntary dismissal.

6. Nothing in this voluntary dismissal is intended to affect Syngenta's pending third-party claims against Third-Party Defendants other than ADM.

WHEREFORE, Syngenta hereby dismisses all of its third-party claims against Third-Party Defendant Archer Daniels Midland Company with prejudice, with each side to bear its own costs.

Dated: January 26, 2018

Respectfully submitted,

/s/ Jordan M. Heinz

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*Attorneys for Syngenta Defendants/
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CERTIFICATE OF SERVICE

I certify that on January 26, 2018, I electronically filed the foregoing document and any attachments with the Clerk of this Court by using the CM/ECF system, which will accomplish service through the Notice of Electronic Filing for parties and attorneys who are Filing Users.

Dated: January 26, 2018

/s/ Jordan M. Heinz

Jordan M. Heinz (ARDC #6286377)